HON'BLE SRI JUSTICE B. PRAKASH RAO
AND
HON'BLE SRI JUSTICE G. BHAVANI PRASAD

WRIT PETITION NOS. 20459, 20470,20479,16549,16550, 16551,
18948 and 18936 OF 2007

BETWEEN

Sandeep Jhawar S/o Shankerlal aged about 34 years, Occ: Business and others

……petitioners

Vs.

The Court of the XI Junior Civil Judge, City Civil Court, Secunderabad and three others.

…..Respondents

HON'BLE SRI JUSTICE B. PRAKASH RAO
AND
HON'BLE SRI JUSTICE G. BHAVANI PRASAD

WRIT PETITION NOS. 20459, 20470,20479,16549,16550, 16551, 18948 and 18936 OF 2007

COMMON ORDER: **(per the Hon'ble Sri Justice G.BHAVANI PRASAD)**

All the Writ Petitions are directed against the maintainability of the suits for injunction filed by the Government of Andhra Pradesh against the different Writ Petitioners in respect of the subject matter of LGC No. 167 of 1997 pending before the Special Court under the A.P. Land Grabbing (Prohibition) Act, 1982 (for short "the Act").

The petitioners claim that they are the owners and possessors of the respective plots having purchased the same under registered sale deeds from their vendors or through Cooperative Housing Societies. They contend that the Mandal Revenue Officer, Marredpally Mandal, filed LGC No. 167 of 1997 before the Special Court for declaration about the occupancy of the lands in S.No. 74/9 of Marredpally Village, belonging to the State Government by land grabbers and the LGC is being contested by the respondents in that case and in view of pendency of that case, the jurisdiction of the Civil Court is ousted by virtue of Section 8(8) of the Act. In view of the exclusive jurisdiction of the Special Court, the Civil Court could not have entertained any dispute about the same land but the State Government through the District Collector and Tahsildar had chosen to initiate civil proceedings by way of civil suits before the XI Junior Civil Judge, City Civil Court, Secunderabad, for permanent injunction against the respective defendants in various suits restraining them not to make any construction till the disposal of LGC No. 167 of 1997. The Civil Court entertained the suits and also granted ex-parte ad interim

injunction in the interlocutory application filed before it in respect of the very same property, which is the subject matter of the land grabbing case. Therefore, the petitioners sought for declaration that the entertainment of the suits by the Civil Court was illegal and without jurisdiction and for consequential orders of directing the Civil Court to refrain from adjudication of any of the suits.

The Tahsildar, Marredpally, representing the Government, contested the writ petitions claiming that the claims of the Writ Petitioners are based on created and fabricated documents. They raised or attempted to raise the constructions on the land in question, illegally. The Writ Petitioners were restrained by the orders of interim injunction in the respective suits from making such constructions at the instance of the State Government, which filed the suits in the absence of any other alternative efficacious relief for the same.

The Tahsildar in his counter narrated the historical background for the claim of the State Government over the land in question and as the petitioners were not parties to the land grabbing case LGC No. 167 of 1997, independent suits have been filed before the Civil Court to restrain them from making constructions. The Writ Petitioners are, therefore, not entitled to take shelter under the pendency of LGC No. 167 of 1997, to which they are not parties and the Writ Petitions ought to be dismissed.

The learned counsel for the petitioners and the learned Government Pleader reiterated the respective contentions.

It is clear from the admitted facts that the land which is the subject matter of LGC No. 167 of 1997 pending before the Special Court under the Act and the specific parts of land covered by the Writ Petition are one and the same in S.No. 74/9 of Marredpally Village. It is true that because of Section 8(2) of the Act, notwithstanding anything in the Code of Civil Procedure, 1908 or in the Andhra Pradesh Civil Courts Act, 1972, any case in respect of an alleged act of land grabbing or the determination of questions of

title and ownership to, or lawful possession of any land grabbed under the Act, shall be triable only in a Special Court constituted for the area in which the land grabbed is situated and the decision of the Special Court shall be final. It is also true that the provisions of the said Act were given overriding effect by virtue of Section 15. It is clear from the manner of constitution of the Special Court under Section 7 of the Act and the procedure and powers of the Special Court as elaborately specified in Section 8 that if the Special Court has absolute jurisdiction in respect of an act of Land Grabbing against persons alleged to be land grabbers, the Ordinary Civil Court will not have jurisdiction over the subject matter. Sub-Section (6) of Section 8 also provides that any finding of the Special Court in such a dispute shall be binding on all persons having interest in such land and the scope of the said provision may possibly extend beyond the parties to the proceedings before it to the extent contemplated by the said Sub-Section. In view of the above exclusive jurisdiction, though the petitioners may or may not be parties to LGC No. 167 of 1997, it will be in the interest of justice to have all the suits transferred to the Special Court to be tried and disposed of along with LGC No. 167 of 1997 and to have the property maintained in the same state, in the meanwhile, in order to protect and safeguard the rights and interests of both the parties.

Without expressing any opinion on the merits of the rival contentions about the rights to the land in question, it is therefore, concluded that, as the Special Court, specially constituted is seized of the entire issue in LGC. No. 167 of 1997, it would be appropriate to have the suits also transferred to the Special Court for being proceeded with and decided in accordance with law and it should be incidentally noted that these Writ Petitioners, who claim the pendency of the LGC No. 167 of 1997 to be a bar for the assumption of jurisdiction of the Civil Court over the civil disputes, themselves filed suits for injunction against the Government and, in

fact, succeeded in obtaining such permanent injunctions subject to the result of LGC No. 167 of 1997, with the consent of the Government for such a course. It may be blowing hot and cold to contend that notwithstanding the pendency of the LGC No. 167 of 1997, the petitioners have right to approach the Civil Court for a relief of permanent injunction against the Government, but the Government has no such right to invoke the jurisdiction of the Civil Court especially for a civil relief of permanent injunction only till and subject to the disposal of the LGC No. 167 of 1997 as prayed for in the respective suits. Therefore, non-suiting the Government in all the suits will not be fair in the interests of justice and the only permissible appropriate and just course of action will be to have all the disputes decided by the Special Court, irrespective of Writ Petitioners being or not being parties to LGC No. 167 of 1997 so far. It is open for the State Government or the Writ Petitioners to take appropriate steps, if they are so advised, to implead such of those persons, who are not parties to LGC No. 167 of 1997 and considered to be necessary and proper for complete adjudication of the questions in controversy between the parties, in that case.

In the result, the original Suits O.S.Nos. 534, 535, 571, 573, 596, 592, 595 and 594 of 2007 on the file of XI Junior Civil Judge, City Civil Court, Secunderabad, shall stand transferred to the Special Court under the Andhra Pradesh Land Grabbing (Prohibition) Act, 1982, Hyderabad, for trial and disposal in accordance with law along with LGC.No. 167 of 1997 already pending on its file, after giving reasonable opportunity to all the parties to place any oral or documentary evidence they desire to produce before the Special Court. Both the petitioners and the respondents are at liberty to take appropriate steps for the impleadment of any necessary and proper parties in LGC No. 167 of 1997 and both the parties to the Writ Petitions shall maintain status quo obtaining as on today in respect of the subject matter of the Writ Petitions till the final determination of the rights of the

parties in LGC No. 167 of 1997.

All the Writ Petitions are ordered accordingly without costs.

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B. PRAKASH RAO, J

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G. BHAVANI PRASAD, J

Date: 04.10.2007
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